

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SAF-T-GARD INTERNATIONAL, INC.,
an Illinois corporation,

Plaintiff,

v.

ENVIROGUARD, INC.,
a Delaware corporation,

Defendant

Case Number: 1:14-cv-00873
Judge: Gary Feinerman
Magistrate Judge: Young B. Kim

JOINT INITIAL STATUS REPORT

Saf-T-Gard International, Inc., (“Saf-T-Gard”) and Enviroguard, Inc. (“Enviroguard”)¹, pursuant to this Court’s May 8, 2014 Minute Order, respectfully file this Joint Initial Status Report.

A. Nature of the Case

1. The attorneys of record for Plaintiff Saf-T-Gard and its lead trial counsel are:

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¹ By participating in this Joint Status Report, Defendant does not waive its right to contest jurisdiction over it.

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Mr. McHale is lead trial counsel for Plaintiff Saf-T-Gard International, Inc.

The attorneys of record for Defendant Enviroguard, Inc. are:

Shauna M. Wertheim
Jocelyn A. Steiner
The Marbury Law Group, PLLC
11800 Sunrise Valley Drive, 15th Floor
Reston, VA 20191
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Robert C. Heist (6203071)
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312/780-1976 Ph.

Attorneys Shauna M. Wertheim and Jocelyn A. Steiner have moved this Court for admission *Pro Hac Vice*, and Ms. Wertheim is lead counsel for Defendant Enviroguard, Inc.

2. This is an action for injunctive relief and to recover damages, which arises under the trademark laws of the United States, 15 U.S.C. §§ 1114 and 1125(a). This Court has original subject matter jurisdiction of this action by virtue of 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a).

3. Saf-T-Gard's claims are for Trademark Infringement, Unfair Competition and False Advertising under the *Lanham Act*. Saf-T-Gard seeks injunctive relief, statutory and compensatory damages and other relief.

4. Defendant Enviroguard does not consent to personal jurisdiction in the Northern District of Illinois, and will be filing a motion to dismiss on or before May 30, 2014. By

participating in this Joint Status Report, Defendant does not waive its right to contest jurisdiction over it.

5. Plaintiff's Statement: The principal legal and factual issues are whether Defendant Enviroguard's use of the name "ENVIROGUARD" in connection with products that are either identical in nature, or closely related to products marketed by Plaintiff, under its registered trademark "ENVIRO-GARD," with knowledge of Plaintiff's registered mark, constitutes Trademark Infringement and Unfair Competition under the *Lanham Act*; and whether its use of the symbol ® in connection with the "ENVIROGUARD" mark constitutes false advertising under the *Lanham Act*.

Defendant's Statement: Defendant notes that Plaintiff's Amended Complaint requests that Defendant be enjoined from use of the ENVIROGUARD name not only in connection with its products but also "as a trademark or a corporate trade name." (Am. Compl., Prayer for Relief ¶ D.)

6. The Defendant was served with process on April 19, 2014, and its response to the Amended Complaint is presently due to be served on May 30, 2014.

B. Proceedings to Date

1. There have been no substantive rulings to date.
2. There are no pending motions, although, as addressed above, Defendant will be filing on May 30, 2014 its motion contesting jurisdiction.

C. Discovery and Case Plan

1. There has been no discovery, neither formal nor informal, which has yet occurred in this action.

2. The parties believe that the provisions of FedRCivP 34, which address the production of electronically stored information ("ESI"), are appropriate for this action. In the unlikely event any particular issue arises with respect to ESI, the parties will cooperate to resolve the matter promptly.

3. Proposed Scheduling Order:

a. Plaintiff's Statement:

Plaintiff proposes the following deadlines:

- i. Deadline for Rule 26(a)(1) disclosures: June 26, 2014.
- ii. Deadline for issuing written discovery requests: December 1, 2014.
- iii. Deadline for completing fact discovery: February 1, 2015.
- iv. Whether discovery should proceed in phases.

The parties believe that all forms of discovery allowed by Rules 30, 33, 34 and 36 should be available simultaneously.

- v. Whether expert discovery is contemplated and, if so, deadlines for Rule 26(a)(2) disclosures and expert depositions.
Expert Discovery is not yet contemplated; however, if applicable, expert reports should be furnished by February 15, 2015 and depositions concluded within 45 days thereafter
- vi. Deadline for amending the pleadings and bringing in other parties 60 days following the Plaintiff's response to the Defendant's pleading.
- vii. Deadline for filing dispositive motions: April 30, 2015

b. Defendant's Statement:

Given Defendant's Motion contesting the jurisdiction of this Court, Defendant does not wish to see the parties expend unnecessary time and money on discovery of the underlying substantive matters at issue. However, to the extent the Court deems any

discovery necessary at this stage, Defendant proposes discovery be limited to jurisdictional issues only along the following timetable:

- i. 30 days from June 5 (the date of the Status Hearing) for parties to serve discovery (i.e., by July 5, 2014)
 - ii. 30 days for parties to respond (i.e., by August 5, 2014)
 - iii. 21 days thereafter for filing of Saf-T-Gard's responsive brief (i.e., by August 26, 2014);
 - iv. 21 days thereafter for filing of Enviroguard's Reply Brief (i.e., by September 16, 2014)
4. The Plaintiff has made a jury demand.
 5. Estimate length of trial: 5-7 trial days.

D. Settlement

1. The parties have engaged in settlement discussions; however, they have not been successful in resolving the dispute between them. At the present time, there are no discussions ongoing; however, the parties remain open to any renewal of settlement communication.
2. The parties request a settlement conference.

E. Magistrate Judge

1. The parties have not consented to proceed before a magistrate judge for all purposes.
2. No matters have been referred to a magistrate judge.

Respectfully submitted,

/s/ Edward F. McHale
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/s/ Robert C. Heist
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Counsel for Enviroguard, Inc

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on May 30, 2014, he shall cause to be filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, the foregoing **Joint Initial Status Report**, using the Court's CM/ECF system, which shall send notification of such filing to all counsel of record.

/s/ Robert L. Margolis